

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Federal-State Joint Board in Universal Service |) | |
| |) | |
| NPCR, Inc. d/b/a Nextel Partners |) | CC Docket No. 96-45 |
| Petition for Waiver of Sections 54.307(c) and |) | |
| 54.314 of the Commission's Rules |) | |

MOTION FOR LEAVE TO FILE OUT OF TIME

NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), by its undersigned counsel and pursuant to Section 1.46 of the Commission's Rules, 47 C.F.R. § 1.46, hereby moves the Commission to allow the filing out of time of its Reply to the "Opposition" electronically filed by CenturyTel, Inc. ("CenturyTel") in the above-captioned proceeding.¹ In support of its Motion, Nextel Partners states as follows:

1. CenturyTel's filing was submitted electronically on December 29, 2003, but (as is customary) the filing did not appear online until the next day, December 30, 2003. CenturyTel did not serve Nextel Partners with a "hard copy" of the pleading; nor did the Commission's Public Notice require such service.

2. The Commission's Public Notice states that Nextel Partners' Reply is to be filed on Monday, January 5, 2004.² However, due to the shortened work week and the intervening holiday (New Year's Day), as well as conflicting vacation schedules, there

¹ See FCC Public Notice, "Wireline Competition Bureau Seeks Comment on Petition of NPCR, Inc. d/b/a Nextel Partners for Waiver of Section 54.314 of the Commission's Rules," CC Docket No. 96-45, DA 03-3948 (rel. December 12, 2003). This Public Notice refers to Nextel's Petition for Waiver of the Commission's Rules with respect to Nextel's status as an Eligible Telecommunications Carrier ("ETC") in the State of Wisconsin.

² See *id.*

was insufficient opportunity between Tuesday, December 30, 2003 (the date the Opposition was first made available) and January 5, 2004 (the following Monday) for Nextel Partners' counsel to review CenturyTel's pleading in consultation with the client, prepare a draft response, and obtain client review and approval prior to filing a final version at the Commission.

3. Immediately upon becoming aware of the filing of CenturyTel's Opposition, Nextel Partners prepared and filed with the Commission a Motion for Extension of Time on December 30, 2003, seeking permission to file its Reply Comments on January 9, 2004, 4 days after the due date specified in the Commission's Public Notice. At the time Nextel Partners filed its Motion for Extension of time, Nextel Partners also did not know whether any other parties in addition to CenturyTel had filed oppositions at the Commission's Office of the Secretary. Temporary National Security restrictions in place prevented access to Commission reference files, and counsel was unable to determine in calls to Commission Staff whether other oppositions were in fact filed manually. As noted above, the Commission's Public Notice did not require opponents to serve Nextel or its counsel directly on the oppositions.

4. Pursuant to Section 1.46(c) of the Commission's Rules, 47 C.F.R. § 1.46(c), Nextel Partners notified Commission staff responsible for acting on the Motion for Extension of Time, and also notified counsel for CenturyTel. CenturyTel's attorneys informed counsel for Nextel Partners orally that they took no position with respect to Nextel Partners' Motion for Extension of Time.

5. In the event that the Commission chooses not to rule on the Motion for Extension of Time Nextel Partners requests in the alternative that this Motion for Leave

to File out of Time be granted. Grant of the instant motion would render the earlier Motion for Extension of Time moot.

WHEREFORE, in light of the foregoing, Nextel Partners submits that good cause exists for the grant of Nextel Partners' Motion for Leave to File Out of Time, and respectfully requests that the Commission accept, *nunc pro tunc*, Nextel Partners' Reply Comments in response to the CenturyTel Opposition for filing in the above-captioned proceeding.

Respectfully submitted,

NEXTEL PARTNERS, INC.

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January 9, 2004